

JAN 24 2013

A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:2-201.5, Hawaii Revised Statutes,
2 is amended by amending subsection (b) to read as follows:

3 "(b) The following definitions shall be used when applying
4 Title 42 United States Code section 300gg, et seq.:

5 "Employee" means an employee who works on a full-time basis
6 with a normal workweek of twenty hours or more.

7 "Group health issuer" means all persons offering health
8 insurance coverage to any group or association, but shall not
9 include those persons offering benefits exempted from Title I of
10 the Health Insurance Portability and Accountability Act of 1996,
11 P.L. 104-191, under sections 732(c) and 733(c) of Title I of the
12 Employee Retirement Income Security Act of 1974 and sections
13 2747 and 2791(c) of the Public Health Service Act.

14 "Qualifying event" means the date of issuance of a general
15 excise tax license, the loss of a job, a reduction in hours of
16 work, or the exhaustion of the federal Consolidated Omnibus
17 Budget Reconstruction Act continuation coverage that results in
18 a loss of health care coverage.

1 "Self-employed individual" means a person operating the
2 person's own business, whether as a sole proprietorship or in
3 any other legally recognized manner in which a person may
4 operate the person's own business, who has a general excise tax
5 license for that business, and who is registered or licensed by
6 the department of commerce and consumer affairs for that
7 business.

8 "Small employer" means, in connection with a group health
9 plan with respect to a calendar year and a plan year, an
10 employer who [employs-between] employed an average of at least
11 one [and no] but no more than [fifty] one hundred employees[-]
12 on business days during the preceding calendar year and who
13 employs at least one employee on the first day of the plan
14 year."

15 SECTION 2. Section 432:1-102, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) Article 2, article 2D, parts II and IV of article 3,
18 article 6, part III of article 7, article 9A, article 13,
19 article 14G, and article 15 of chapter 431, sections 431:3-301,
20 431:3-302, 431:3-303, 431:3-304, and 431:3-305, and the powers
21 granted by those provisions to the commissioner, shall apply to
22 managed care plans, health maintenance organizations, or medical

1 indemnity or hospital service associations that are owned or
2 controlled by mutual benefit societies so long as the
3 application in any particular case is in compliance with and is
4 not preempted by applicable federal statutes and regulations."

5 SECTION 3. Section 432D-19, Hawaii Revised Statutes, is
6 amended by amending subsection (d) to read as follows:

7 "(d) Article 2, article 2D, part IV of article 3, article
8 6, part III of article 7, article 9A, article 13, article 14G,
9 and article 15 of chapter 431, and sections 431:3-301 and 431:3-
10 302, and the powers granted by those provisions to the
11 commissioner shall apply to health maintenance organizations, so
12 long as the application in any particular case is in compliance
13 with and is not preempted by applicable federal statutes and
14 regulations."

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act, upon its approval, shall take effect
18 on July 1, 2013; provided that the amendment made to section
19 431:2-201.5, Hawaii Revised Statutes, by this Act shall not be
20 repealed when that section is reenacted on July 1, 2013, by
21 section 3 of Act 120, Session Laws of Hawaii 2008, as amended by
22 section 14 of Act 11, Session Laws of Hawaii 2009.

S.B. NO. 1079

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INTRODUCED BY: *Jonas Mercedo*

BY REQUEST

S.B. NO. 1071

Report Title:

Health Insurance

Description:

Amends the definition of "small employer" contained in section 431:2-201.5, Hawaii Revised Statutes; amends sections 432:1-102(b) and 432D-19(d), Hawaii Revised Statutes, by including the producer licensing requirements contained in article 9A of chapter 431, Hawaii Revised Statutes.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO HEALTH INSURANCE.

PURPOSE: To update the Hawaii Insurance Code (Title 24) to be consistent with the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and Patient Protection and Affordable Care Act by amending the definition of "small employer" and by applying the statutory requirements for the licensing of insurance producers to health maintenance organizations and mutual benefit societies.

MEANS: Amend sections 431:2-201.5, 432:1-102(b), and 432D-19(d), Hawaii Revised Statutes.

JUSTIFICATION: Currently, Hawaii defines "small employer" in section 431:2-201.5 as "an employer who employs between one but no more than fifty employees".

At the time of its enactment, the language in section 431:2-201.5 met the compliance requirements under HIPAA and tracked the language contained in 42 U.S.C. § 300gg-91 (1997). Because of subsequent changes to the language in 42 U.S.C. § 300gg-91, this is no longer the case.

This bill proposes to amend the language in section 431:2-201.5 to track the language contained in 42 U.S.C. § 300gg-91 (2010), as this was part of the original intent in drafting section 431:2-201.5.

With respect to the application of article 9A to health maintenance organizations and mutual benefit societies, agents and brokers must be licensed as producers before they can participate in the Hawaii health insurance exchange, known as the Hawaii

Health Connector. Producer licensing for insurance is found in article 9A of chapter 431 of the Hawaii Revised Statutes. However, no producer licensing exists for health maintenance organizations and mutual benefit societies. Adding producer licensure to chapters 432 and 432D will create parity between producers of insurance, health maintenance organizations, and mutual benefit societies, as well as provide greater protection to Hawaii's consumers.

Impact on the public: This proposal promotes the public interest by increasing employer participation in the Hawaii Health Connector, thereby creating a more robust and competitive environment for the public and health insurers. Further, the public would also benefit from requiring the licensing of producers under chapters 432 and 432D by ensuring minimum qualifications are met and by requiring registration with the Insurance Division.

Impact on the department and other agencies: None. This is a technical, housekeeping measure.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	CCA 106.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	July 1, 2013.